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IN THE

Supreme Court of the United States

OCTOBER TERM, 1932.

NO. 504

APPALACHIAN COALS, INCORPORATED, *et al.*,

Appellants,

against

THE UNITED STATES OF AMERICA,

Appellee.

MOTION TO ADVANCE

WILLIAM J. DONOVAN
E. L. GREEVER
HORACE R. LAMB

Solicitors for Appellants,
90 Broad Street,
New York, N. Y.

W. F. ROBERTS CO. WASHINGTON D. C.

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APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA.

MOTION TO ADVANCE

The Appellants move to advance the above entitled cause for early hearing in this Court on the ground that the case is one of public importance.

This is a suit in equity brought by the United States of America for an injunction under Section 4 of the Act of June 2, 1890 (26 Stat. 209) com-

monly known as the Sherman Anti-Trust Act. An expediting certificate was filed by the Attorney General under the provisions of the Expediting Act of February 11, 1903 (32 Stat. 823; 15 USCA Sec. 28) and thereupon this cause was heard before three Judges of the Circuit Court of Appeals for the Fourth Circuit, sitting as the United States District Court for the Western District of Virginia.

The present appeal is from the final decree of the District Court pursuant to the provisions of the Expediting Act of February 11, 1903 (32 Stat. 823; 15 USCA Sec. 29).

The United States brought suit against Appalachian Coals, Incorporated, 135 corporate producers of bituminous coal, one individual producer of bituminous coal and three officers of Appalachian Coals, Incorporated.

The petition charges that the defendants are engaged in a combination and conspiracy in restraint of interstate and foreign commerce in bituminous coal and are combining and conspiring to monopolize and are attempting to monopolize part of the interstate commerce in bituminous coal.

The case involves the legality under the Sherman Act of a plan for marketing bituminous coal. Under this plan the defendants, producers of bituminous coal in the territory described in the petition as "the Appalachian Territory," entered into uniform written contracts with Appalachian Coals, Incorporated, constituting that corporation their exclusive selling agent for all coal produced at the mines of such producers.

The Court held that the formation and proposed operation of Appalachian Coals, Incorporated, restrained interstate trade and commerce within the meaning of the Sherman Act and entered a final decree in which it specifically enjoined the defendants from proceeding further under the contracts entered into by Appalachian Coals, Incorporated, and the several defendant producers, and ordered the dissolution of Appalachian Coals, Incorporated.

The defendants have appealed to this Court.

An early decision by this Court upon this appeal is of public importance.

(a) because this case involves the legality of the organization of a common exclusive selling agency as a form of business organization in the bituminous coal industry;

(b) because the decision of this Court will largely determine the method by which these defendants shall sell their coal;

(c) because the decision of this Court may largely determine whether similar organizations may be formed by other producers of bituminous coal.

WILLIAM J. DONOVAN
E. L. GREEVER
HORACE R. LAMB
Solicitors for the Appellant.

The Attorney General having filed in the District Court a certificate that this case is of general public

importance, the Solicitor General joins in this motion to advance this cause for early hearing on such date on or after January 3, 1933 as may be convenient to the Court.

Dated, November 26, 1932.

THOMAS D. THACHER,
Solicitor General.